## REMARKS

The above Amendments and these Remarks are in reply to the Office Action mailed November 28, 2006. Claims 80-89 are amended and claim 90 is cancelled.

Rejection of Claims 80-90 and 109-116 Under Judicially Created Doctrine of Obviousness-Type Double Patenting

Claims 80-90 and 109-116 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-69 of U.S. Patent No. 6,694,336 B1 and claims 1-29 of U.S. Patent No. 6,671,757 B1.

Terminal disclaimers are filed concurrently herewith to advance the prosecution of the instant application. Therefore the withdrawal of the Examiner's rejections of claims 80-90 and 109-116 under the judicially created doctrine of obviousness-type double patenting is respectfully requested.

Objection of Claims 80, 82-84, 87, 90 and 109

Claim 84 is objected to because of containing a typographical error. This informality has been corrected and it is therefore respectfully requested that the objection to this claim be withdrawn.

Claims 80, 82-83, 90 and 109 are objected to for allegedly containing informalities. In particular, the Examiner has indicated that the use of "for" in phrases such as "for comparing" and "for forwarding" is improper intended use language. Applicants respectfully disagree. The Examiner has cited no support for the position that the use of the word "for" as applicants have used that term is improper intended use language. Indeed, applicants respectfully submit that no such support exists. There is no prohibition against the use of the word "for" as used by applicants appearing in the MPEP or applicable case law or statute. On the contrary, U.S. Code 35, section 112 expressly authorizes the use of the word "for" when claiming an invention using means plus function language. The use of the term "for" in applicants' claims is analogous to such expressly authorized usage.

It is therefore respectfully submitted that there is no prohibition against using the term "for" as applicants have used it, and it is respectfully requested that the objection to the claims on these grounds be withdrawn.

Claims 81 and 87 are objected to because of containing informalities. The Examiner has indicated that the term "operatively coupled" is "passive recitation of a capability of the system and no [sic] a functionality." Again, the Examiner has cited no support for the position that "passive recitation of a capability" is improper claim language and applicants respectfully submit that no such support exists. Applicants know of no support for such a standard appearing in the MPEP or applicable case law or statute. Nevertheless, although not done for patentability purposes, applicants have deleted the word "operatively" from the claims. It is therefore respectfully requested that the objection to these claims be withdrawn.

Rejection of Claims 80-88 and 90 Under 35 U.S.C. §112

Claims 80-88 and 90 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 80, the Examiner pointed out that the terms "the personal computer" and "the computer" lacked antecedent basis. Applicants have amended the claim to instead recite "the device," which has antecedent basis in the claim preamble.

With respect to claim 87, applicants have changed the dependency of the claim to correct the antecedent basis problem.

With respect to the recitation of a network coupled server, applicants have clarified that the claims refer to the same network coupled storage server.

With respect to the recitation of "said difference transaction," applicants respectfully submit that "at least one binary difference transaction" provides antecedent basis for all later recitation of "said difference transaction." Nevertheless, although not done for patentability purposes, applicants have amended the claims to refer to "said binary difference transaction."

With respect to the recitation of "said device," applicants respectfully submit that "network coupled processing device" provides antecedent basis for all later recitation of "said device." Nevertheless, although not done for patentability purposes, applicants have amended the claims to refer to "said network coupled processing device."

With respect to "the record," applicants have amended claim 83 to recite, "a record."

With respect to the "second synchronizer," applicants have amended claim 87 to depend on claim 84, which recites a second synchronizer.

With respect to "Xdelta," claim 90 has been canceled.

It is therefore respectfully requested that the rejection of these claims under 35 U.S.C. §112, second paragraph, be withdrawn.

Rejection of Claims 84-86 Under 35 U.S.C. §112

Claims 84-86 are rejected under 35 U.S.C. §112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

Applicants have amended the claims in a way that was suggested by the Examiner. It is therefore respectfully requested that the rejection of these claims under 35 U.S.C. §112, second paragraph, be withdrawn.

Rejection of Claims 80-87, 90 and 109-116 Under 35 U.S.C. §102(e)

Claims 80-87, 90 and 109-116 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,516,327 B1 to Zondervan et al. (hereinafter "Zondervan"). Applicants respectfully traverse as follows.

A significant distinction between the claim invention and Zondervan is that Zondervan does not disclose, or in any way suggest, a synchronization system that syncs using only "binary differencing data" and does not disclose, or in any way suggest, a "binary difference transaction" based on the binary differencing data. In particular, as explained in the previously filed Appeal Brief, the claimed invention compares two records, generates "differencing data" which is the differences between the compared files, and then transmits only the differencing data. This results in

a sync operation having a more efficient transfer of data over less bandwidth than was known in the prior art.

By contrast, Zondervan teaches throughout that the sync operations performed in that reference are done using well-known date and time stamp sync operations. In particular, two records are compared, and if one is later in time based on an associated time stamp, the earlier record is updated to the later record. Specific support for this position is found in Zondervan for example at column 7, lines 17 et. seq.:

> system may simply synchronize every record within the database. For example, in step 102, the system may simply go through each main database record that is assigned to the secondary database. Alternatively, the system may keep track of the records that are new or modified since the last synchronization and may proceed through each of these records until all of these records are synchronized. One method involves storing the time and date of synchronization and then synchronizing only those records that have been modified, added or deleted since the stored time and date. This method avoids replicating records to which no changes have been made since the last replication.

And further at column 12, lines 35 et. seq.:

> In step 244, the system synchronizes the source record into the secondary record by copying appropriate fields from the source record into appropriate fields within the secondary record. Methods for synchronizing one database record with another database record are known and such systems may be used according to the present invention.

And further at column 13, lines 59 et. seq.:

> If the source record is valid, then in step 268 synchronization between the secondary record and the source record may take place. As described above, synchronization of fields within a secondary database record and source database record may take place using known techniques for synchronizing fields between databases.

Applicants have reviewed Zondervan at the sections indicated by the Examiner to disclose the recited claim limitations. It is respectfully submitted that the specific cited sections do not

disclose or suggest the recited claim limitations. For example, applicants have reviewed Zondervan at column 3, lines 12-21 indicated by the Examiner to show code for "providing differencing data..." Applicants can find no disclosure, at the cited section or elsewhere in Zondervan, of this feature. Nor is differencing data disclosed at column 13, lines 5-25 as indicated by the Examiner with respect to claim 109. Again, throughout Zondervan discloses only known time stamp sync operations. Zondervan does refer to a "delta table" which stores modifications to the secondary database. However, these modifications are not the specific changes to the data obtained from the comparison of records. The delta table is instead used in Zondervan to indicate whether or not a sync operation is required with respect to a particular record.

Based on the lack of a disclosure in Zondervan of the claimed invention, including for example "binary differencing data" and a "binary difference transaction" based on the binary differencing data, it is respectfully submitted that the claimed invention is patentable over Zondervan, and it is respectfully requested that the rejection on 35 U.S.C. §102(e) grounds be withdrawn.

Rejection of Claim 88 Under 35 U.S.C. §103(a)

Claim 88 is rejected under 35 U.S.C. §103(a) as being unpatentable over Zondervan in view of U.S. Patent No. 5,519,433 to Lappington et al. (hereinafter "Lappington").

Claim 88 depends on claim 80. As discussed above, claim 80 recites features that are not disclosed or suggested in Zondervan. Lappington adds nothing to the teaching of Zondervan in this regard. It is therefore respectfully submitted that claim 88 is patentable over the cited references, taken alone or in combination with each other, and it is therefore respectfully requested that the rejection of claim 88 under 35 U.S.C. §103(a) be withdrawn.

Rejection of Claim 89 Under 35 U.S.C. §103(a)

Claim 89 is rejected under 35 U.S.C. §103(a) as being unpatentable over Zondervan in view of U.S. Patent No. 5,574,906 to Morris (hereinafter "Morris").

Claim 89 depends on claim 80. As discussed above, claim 80 recites features that are not disclosed or suggested in Zondervan. Morris adds nothing to the teaching of Zondervan in this regard. It is therefore respectfully submitted that claim 89 is patentable over the cited references, taken alone or in combination with each other, and it is therefore respectfully requested that the rejection of claim 89 under 35 U.S.C. §103(a) be withdrawn.

Based on the above amendments and these remarks, reconsideration of claims 80-89 and 109-116 is respectfully requested.

The Examiner's prompt attention to this matter is greatly appreciated. Should further questions remain, the Examiner is invited to contact the undersigned attorney by telephone.

Enclosed is a PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.136 for extending the time to respond up to and including today, May 29, 2007.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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